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2012-0004  
Extraordinary Filing

January 27, 2012

James J. Sledge, Esquire  
Rosen Harwood  
Post Office Box 2727  
Tuscaloosa, Alabama 35403-2727

Dear Mr. Sledge:

After our meeting yesterday with Speaker of the House Mike Hubbard and yourself, Jim Sumner and I spent some time discussing the issue and reviewing the consulting agreement that is going to be entered into between the Southeast Alabama Gas District and Mike Hubbard.

As we discussed at our meeting yesterday, we do not see any problems with this arrangement, as it is currently being done in several circumstances around the state by various members of the Legislature. In addition, the fact that this is a consulting contract and not an employment agreement makes the matter that much cleaner.

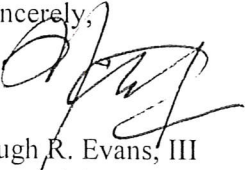
As we stated yesterday, the only potential issue that we saw would be if something came before the Legislature that uniquely affected the Southeast Alabama Gas District differently than it affected all other utilities around the state of Alabama. Should this happen, we would expect that Speaker Hubbard would have plenty of notice in which to remove himself from discussions, votes, etc.

The general prohibitions continue to apply, in that the Speaker may not use his position or the mantle of his office to assist him in obtaining consulting opportunities or providing benefits to his consulting business or his clients.

Other than this, we see no problems.

We appreciate your and the Speaker's sensitivity to the Ethics Law. If we can be of further assistance, please do not hesitate to contact either one of us.

Sincerely,



Hugh R. Evans, III  
General Counsel

/jd

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January 25, 2012

Mr. James L. Sumner, Jr.  
Alabama Ethics Commission  
100 North Union Street, Suite 104  
Montgomery, AL 36104

**Re: The Southeast Alabama Gas District – Consulting Agreement**

Dear Mr. Sumner:

As you know I represent The Southeast Alabama Gas District ("SEAGD"), an Alabama public corporation organized under Section 11-50-390, *et seq.* for the proprietary (non-governmental) purpose of providing natural gas service to various customers in the southeastern part of state. We are submitting for pre-clearance by the Commission the proposed Consulting Agreement between SEAGD and Mike Hubbard, a member of the Alabama legislature. We appreciate the Commission's prompt consideration of this matter.

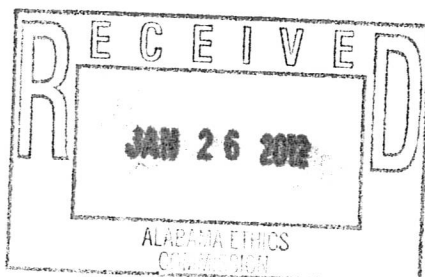
Sincerely,

A handwritten signature in black ink, appearing to read 'J. Sledge', with a long horizontal flourish extending to the right.

James J. Sledge

JJS:mhf

Enclosure



**CONSULTING CONTRACT**  
**Strategic Consultant**

This agreement is made and entered effective as of the 1st day of February, 2012, between The Southeast Alabama Gas District ("SEAGD") and Auburn Network, Inc. ("Network").

**Background**

A. SEAGD is a natural gas transportation and distribution company owned by fourteen (14) member towns located in Southeast Alabama (the "Member Towns"). SEAGD is an Alabama public corporation, a gas district created pursuant to Section 11-50-390, et seq, *Alabama Code*.

B. SEAGD is interested in economic development involving the use of natural gas in the entire SEAGD service areas and growth in the Member Towns.

C. Network employs Mike Hubbard ("Consultant"), and has agreed to provide the services of Consultant to SEAGD under the terms of this Consulting Contract. Consultant has experience in a variety of business and promotional efforts, making him qualified to assist SEAGD in the field of economic development and marketing.

D. SEAGD and Consultant have agreed to enter into this Agreement for the purpose of Consultant promoting and marketing SEAGD and the economic development of the member towns of SEAGD.

**Agreement**

For and in consideration of the mutual covenants set forth herein, the parties agree as follows:

**1. Services**

Through Consultant, Network shall provide economic development services to SEAGD, including identifying and delivering economic development prospects for facilities utilizing natural gas, such facilities to be located within SEAGD's service area; working with state and local economic development officials; upon identification of an economic development prospect, providing information to SEAGD and the Member Towns, but to not work to favor one town over another as the development process continues; all under the direction and control of the President and CEO of SEAGD. Through Consultant, Network shall further support SEAGD's marketing efforts, assisting in efforts to promote the use of natural gas within the SEAGD service area for residential, commercial and industrial applications. Subject to Section 3, below, the general agreement of the parties is that Network shall make Consultant available for a sufficient amount of time as needed to promote the economic development and marketing efforts of

SEAGD; it being recognized that the nature of the services requires irregular hours and that Consultant may devote many hours to a project during one period of time, and then devote few hours in a subsequent period. By way of example, on recruiting trips, either within or without the State of Alabama, Consultant will devote more time to this project, without additional charge other than reimbursement of expenses as provided in Section 3 below.

## **2. Term**

The term of this agreement shall begin on the effective date hereof and shall continue for two years, subject to termination by either party on ninety (90) days notice, with the further proviso that SEAGD may terminate immediately and pay Network the fees provided hereunder for the next ninety (90) days.

## **3. Budget, Fees, Expenses and Facilities**

Annually, the President and CEO of SEAGD shall make Network aware of the budget for economic development for the year, forecasting the nature of the work and expenses he expects Consultant to devote to this contract for the upcoming year. Network, through Consultant, shall provide only those services approved from time to time by the President and CEO.

For the consulting services approved pursuant to the terms hereof, SEAGD shall pay Network Twelve Thousand dollars (\$12,000) per month. SEAGD shall also reimburse the Network for such expenses approved by the President and CEO, upon presentment of a monthly expense report supported by receipts and statements. The invoices shall be submitted on such form as may be from time to time required by SEAGD.

SEAGD plans to open a Montgomery, Alabama office suitable for economic development and other activities. While most of Consultant's services provided hereunder will be at other venues, SEAGD shall make office space available to Consultant at such facility for his occasional use. Network shall furnish Consultant his own automobile, cellphone and other outside-of-the-office support equipment, subject to reasonable reimbursement per the budget.

## **4. Reports**

Network shall submit monthly written reports of his activities, in form and substance acceptable to SEAGD, on or about the 15<sup>th</sup> day of each month but not later than the third Tuesday of each month in order that management of SEAGD can be prepared to discuss economic development matters with members of its Board of Directors at its monthly meeting.

## **5. Independent Contractor Status**

The parties recognize and agree that Network is an independent contractor. There is no employee/employer relationship between Network and SEAGD. Network shall be

responsible for all personal insurance, payroll and withholding taxes, social security and like taxes arising from Network's providing the services of Consultant hereunder.

## **6. Specialized Services - No Assignment**

It is recognized that the services to be provided hereunder are unique and specialized. Therefore, Network may not assign this contract or subcontract any of the services to be performed hereunder.

## **7. Compliance with Laws and Regulations**

Consultant agrees to comply with all SEAGD policies, rules, and regulations, which may be in effect during the term of this Agreement, as well as all federal, state, and local statutes, ordinances, and regulations. Consultant agrees to not use his legislative office or any facilities or equipment provided to him in his role as an Alabama legislator in the performance of his work for SEAGD. Consultant further agrees, to the extent possible, to avoid conflicts of interest. If a conflict of interest arises, Consultant will (i) promptly inform SEAGD of said conflict, and (ii) should the conflict involve his role as an Alabama legislator, Consultant will refrain from acting in a manner that would assist SEAGD.

## **8. Confidential Information**

8.1 As used in this Agreement, "Confidential Information" shall mean any and all technology, know-how, financial, confidential or proprietary information and trade secrets (including any and all embodiments thereof) of SEAGD, including but not limited to:

(a) SEAGD's rate structure, cost structure, pricing to customers not under standard tariffs, and all non-public financial information;

(b) Any confidential or proprietary information relating to proposals to provide service to its existing customers or prospective customers;

(c) The specifications of, and any other information related to, any new products or services under development by SEAGD;

(d) The source of supply for SEAGD and supplier lists and agreements; and

(e) Any and all other confidential or proprietary information relating to the operation of the SEAGD system, and its business, including without limitation concepts, designs, techniques, models, purchasing, accounting, engineering, marketing, merchandising, selling, servicing, and general business methods, owned, developed or used by SEAGD in connection with its current or future business.

8.2. Network and Consultant shall maintain the confidentiality of the Confidential Information and shall not, directly or indirectly, use, disclose, divulge, communicate or otherwise utilize the Confidential Information except for purposes permitted hereunder, without the prior express written consent of SEAGD.

8.3 These obligations shall survive the termination of this Agreement. Network and Consultant shall deliver all data to SEAGD upon request and, in any event, upon the completion or termination of all work hereunder, whichever first occurs, and shall be fully responsible for the care and protection of such data until such delivery.

## **9. Exclusivity**

During the term of this Agreement, SEAGD shall be the ~~only client seeking~~ economic development prospects represented by Network or Consultant. ~~Without limiting the~~ generality of the foregoing, during the term hereof Consultant shall not accept assignments from any other firm providing utility services, any county, any municipality, or any regional development agency; however, Consultant shall have the ability to work on other projects and business activities where Consultant has a personal business interest.

## **10. Miscellaneous**

10.1 **Amendments.** No amendment, modification, termination, or waiver of this Agreement shall in any event be effective unless the same shall be in writing and signed by all parties hereto, and, in the event same is a waiver, then such waiver shall be effective only in the specific instance and for the specific purpose for which given.

10.2 **Notices.** All notices and other communications provided for under this Agreement shall be in writing (including telegraphic, telex, and facsimile transmissions) and mailed or transmitted or delivered:

If to SEAGD

The Southeast Alabama Gas District  
Attention: Greg Henderson  
Post Office Box 1388  
Andalusia, Alabama 36420

Telephone: (334) 222-4177  
Fax: (334) 222-7803

and

If to Consultant

Auburn Network, Inc.

Attn: Mike Hubbard  
197 East University Drive  
Auburn, AL 36830

Email: hubbard@aunetwork.com

or, as to each party, at such other address as shall be designated by such party in a written notice to the other party. Except as otherwise provided in this Agreement, all such notices and communications shall be effective when deposited in the mails or when delivered by express or courier service.

**10.3 No Waiver.** No failure or delay on the part of either party in exercising any right, power, or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. The rights and remedies provided herein are cumulative, and are not exclusive of any other rights, powers, privileges, or remedies, now or hereafter existing, at law or in equity or otherwise.

**10.4 Integration.** This Agreement contains the entire agreement between the parties relating to the subject matter hereof and supersedes all oral statements and prior writings with respect thereto.

**10.5 Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alabama.

**10.6 Severability of Provisions.** Any provision of the agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of the agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

**10.7 Headings.** Article and Section headings are included in the agreement for the convenience of reference only and shall not constitute a part of the applicable provision for any other purpose.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers, duly authorized, as of the date first above written.

**THE SOUTHEAST ALABAMA GAS DISTRICT**

By: \_\_\_\_\_  
**J. Gregory Henderson**

**AUBURN NETWORK, INC.**

By: \_\_\_\_\_  
**Mike Hubbard**

**The undersigned hereby confirms the obligations assigned to Consultant hereunder.**

\_\_\_\_\_  
**Mike Hubbard**